

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JENNIFER SMITH,
Plaintiff,

v.

BANK OF AMERICA CORP., and BANK OF
AMERICA, N.A.,

Defendants.
----- X

ECF CASE

Case No. 11 CV 6368-JBW-JO

**DEFENDANTS' NOTICE OF
MOTION TO DISMISS AND/OR
STRIKE PORTIONS OF
PLAINTIFF'S COMPLAINT**

PLEASE TAKE NOTICE that upon the annexed memorandum of law (and requests for judicial notice contained therein), Declaration of Lori McCarthy-Lopez, and upon all the pleadings and proceedings had herein, Defendants BANK OF AMERICA CORP. and BANK OF AMERICA, N.A. (collectively "Defendants") will move the Court before the Honorable Jack B. Weinstein at the United States District Courthouse for the Eastern District of New York, located at 225 Cadman Plaza East, Brooklyn, New York, 11201, for an Order pursuant to FED. R. CIV. P. 12(b)(6) granting the motion of Defendants to dismiss the Complaint of Plaintiff JENNIFER SMITH ("Plaintiff") in its entirety on the grounds that the Complaint fails to state a claim on which relief can be granted, or, in the alternative, pursuant to FED. R. CIV. P. 12(f), FED. R. CIV. P. 23(c), and FED. R. CIV. P. 23(d)(1)(D) to strike portions of the Complaint, and for such other, further, or different relief as the Court deems just and proper.

Dated: February 17, 2011

McGUIREWOODS LLP

By: /s/ Philip A. Goldstein
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